DRAFT- awaiting concurrence from the Services

US Army Corps of Engineers
Seattle District

Proposed Department of the Army Regional General Permit

PROPOSED
RGP-3
Construction of New or Expansion of Existing Residential Overwater Structures and Drive Moorage Piling in Lake Washington, Lake Sammamish, the Sammamish River and Lake Union, Including the Lake Washington Ship Canal

Effective Date: Proposed **Expiration Date:** Proposed

Permit Number: CENWS-OD-RG-RGP-3

Authority: In accordance with 33 CFR 325.2(e)(2), the U.S. Army Corps of Engineers (Corps) is proposing a regional general permit (RGP) that would authorize certain activities in or affecting waters of the United States, including navigable waters of the United States, upon the recommendation of the Chief of Engineers, pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344).

Issuing Office: U.S. Army Corps of Engineers, Seattle District
Regulatory Branch, CENWS-OD-RG
Post Office Box 3755
Seattle, Washington 98124-3755
Telephone: (206) 764-3495

Purpose: The purpose of this RGP is to authorize the construction of new or expansion of existing residential overwater structures (see Appendix F for definitions) and/or drive moorage piling to provide water access and boat moorage in Lake Washington, Lake Sammamish, the Sammamish River and Lake Union, including the Lake Washington Ship Canal.

Use of this RGP: To use this RGP, a prospective permittee must first notify the Corps of the proposed work in accordance with the application procedures in this RGP (see page 2). ***A proposed project is not authorized under this RGP, and work may not commence, until the District Engineer or his designee has issued written notification that the proposed project meets the requirements of this RGP and is authorized.*** The permittee and all contractors performing work are responsible for ensuring that the authorized work complies with all applicable provisions of this RGP, including any project-specific special conditions that may be added by the District Engineer. Failure to abide by the requirements of this RGP may constitute a violation of the Rivers and Harbors Act or the Clean Water Act. For purposes of this RGP, the term "permittee" shall include all successors in interest.

This RGP contains provisions intended to protect the environment, endangered species, and cultural resources. Future additional provisions and conditions may be identified during the processing of this regional permit and included in the permit, as appropriate.

Work that will not comply with these provisions is not authorized by this RGP and may require Department of the Army authorization by a standard individual permit. Moreover, compliance with the provisions of this RGP does not itself guarantee that the work is authorized by this RGP. Activities that appear to comply with the provisions of this RGP but would have an unacceptable adverse impact on the public interest are not authorized.

Location of Authorized Activities: This RGP is applicable in Lake Washington, Lake Sammamish, the Sammamish River and Lake Union, including the Lake Washington Ship Canal.

Activities Authorized by this RGP: Work authorized by this RGP is limited to the construction of new or expansion of existing residential overwater structures including piers, floats, ramps and other similar structures and/or driving moorage piling and future maintenance of authorized facilities. Once the work is authorized by the RGP, any proposed modifications beyond the limitations of the RGP must be approved by a Department of the Army Individual Permit. This RGP only authorizes one pier/ramp/float structure per property. There are further limitations for joint use piers (see Application Procedures section below). Definitions of terms used in this RGP are located in Appendix F of this document.

This permit authorizes fill material placed for the purposes of fish habitat enhancement, as required by the Hydraulic Project Approval (HPA) from the Washington Department of Fish and Wildlife. Also, any Corps required mitigation measures for the overwater structures are also authorized by this RGP.

Application Procedure: Authorization under this RGP requires that a prospective permittee notify the Corps of the proposed work in accordance with the application procedures described in this section and not proceed with the proposed work until the District Engineer or his designee issues written notification that the proposed project meets the requirements of this RGP and is authorized. To notify the Corps of a proposed project that may qualify for authorization under this RGP, the prospective permittee must submit the following information:

1. A complete ***Specific Project Information Form (SPIF)*** for RGP-3 (see Appendix A). Submittal of a completed *SPIF* for RGP-3 constitutes the applicant's voluntary agreement to meet all of the requirements of this RGP.

2. A "complete application" including appropriate vicinity map, plan, profile, and cross-section drawings of the proposed work and structures and overwater structures on adjacent properties, as well as estimates of the volume of each type of material that would be discharged (temporarily or permanently) into waters of the United States (for assistance with preparation of the drawings, please refer to Appendix B, *Drawing Checklist*). A complete application must also incorporate appropriate impact reduction measures as discussed in the *Construction Specifications and Conservation Measures* section below (see paragraph 13).

3. A drawing showing the planting plan and species list (see Appendix C) must be included with the project drawings discussed above.

4. If the structure will be "joint use" you must:
   a. List all property owners using the joint use pier as co-applicants and they must sign the application form.
   b. Provide a joint use agreement signed by all involved property owners; the agreement must state that each property owner voluntarily agrees to build no overwater structures on their property except for the authorized joint use overwater structure.
   c. Show on a drawing the location of all properties involved in the joint use agreement.

5. For activities that may affect historic properties listed, or eligible for listing, in the National Register of Historic Places, the notification must include a description of each historic property that may be affected by the proposed work and a map indicating the location of the property.

6. Any other relevant information, such as photographs of the project area, a description of any offsite borrow site that would be used, and a copy of the HPA.

Corps Permit Processing Procedures: Upon receipt of a complete application, the Corps will forward a copy of the SPIF and any relevant information to the National Marine Fisheries Service, the U.S. Fish and Wildlife Service (Services), and the Muckleshoot Indian Tribe. The Services and the Tribe will have 21 calendar days to provide comments on the application. If no comments are received, the Corps will complete its review, and if appropriate, issue written notification to the applicant that the proposed work meets the requirements of the RGP provided all other terms and conditions of the RGP are met.

If the Services or the Tribe raise any issues relating to the project, resolution of these issues must occur prior to the Corps confirming that the project meets the requirements of the RGP. If a resolution cannot be reached, the project may require additional information or may need to be processed using the Corp's individual permit procedures.

Construction Specifications and Conservation Measures: The following construction specifications and conservation measures must be implemented for the work to be authorized by this RGP:

1. Number of Overwater Structures. This permit authorizes the construction or expansion of only one non-commercial, residential moorage facility per upland residential waterfront property owner or one joint-use moorage facility for two or more adjacent waterfront property owners.

2. Existing In-Water Structures. Any existing in-water and overwater structures within 30 feet of the ordinary high water (OHW) line, except for those facilitating access as authorized by this permit, shall be removed and no additional over-water structures shall be constructed in this nearshore area over the entire length of the property.

3. Pier, Ramp, Float, and Ell Specification Options. Note that only piers and ramps can be within the first 30 feet from shore. All floats and ells must be 30 feet waterward of OHW. No skirting is allowed on any structure.

   a. Surface Coverage (includes all floats, ramps, and ells):
      (1) Single property owner: 480 square feet
      (2) Two property owners (residential): 700 square feet
      (3) Three or more residential property owners: 1000 square feet.

   b. Height above the water surface: except for floats, the bottom of all structures must be at least 1.5 feet above OHW.

   c. Widths and lengths:
      (1) Piers - 4-feet wide and fully grated with at least 60% open area.
      (2) Ramps - must not exceed a width of 3 feet and must be fully grated.
      (3) Ells - must be in water with depths of 9 feet or greater at the landward end of the ell.
         a. Up to 6-feet wide by 20-foot long with a 2-foot strip of grating down the center.
         b. Up to 6-feet wide by 26-foot long with grating providing 60% open area over the entire ell.
      (4) Floats- must be in water with depths of 10 feet or more at the landward end of the float. Floats can be up to 6 feet wide and 20 feet long, but must contain a minimum of 2 feet of grating down the center.

4. Length of Structures compared to Adjacent Structures. The length of a pier is limited by the maximum square footage allowed (see item no. 3 above). Any proposed pier that extends further waterward than adjacent piers will be reviewed on a case-by-case basis to assess impacts on navigation. Piers determined by the Corps to have an adverse effect on navigation are not authorized by this permit.

5. Piling Specifications. The first (nearest shore) piling shall be steel, 4" piling and at least 18' from the OHW. Piling sets beyond the first shall also be spaced at least 18 feet apart and shall not be greater than 12" in diameter. Piles shall not be treated with pentachlorophenol, creosote, CCA or comparably toxic compounds. If ACZA piling are proposed, the applicant will meet all of the Best Management Practices, including a post-treatment procedure, as outlined in the amended Best Management Practices of the Western Wood Preservers.

   Steel piles will be installed using approved sound attenuation measures. These measures can be found on the Corps website: *http://www.nws.usace.army.mil/reg.html*.

6. Treatment of Overwater Structural Materials. Any paint, stain or preservative applied to components of the overwater structure must be leach resistant, completely dried or cured prior to installation. Materials shall not be treated with pentachlorophenol, creosote, CCA or comparably toxic compounds.

7. Existing Habitat Features. Existing habitat features (e.g., large and small woody debris, substrate material, etc.) shall not be removed from the riparian or aquatic environment. If invasive weeds (e.g., milfoil) are present, removal may occur by non-chemical means only with authorization from the Washington State Department of Fish and Wildlife.

8. Mooring Piles. This permit allows for no more than 2 mooring piles driven per structure authorized by this RGP. The 2-pile limit shall include all existing mooring piles. Moorage piling shall not be driven within 30 feet of the OHW line; shall not be placed any further waterward than the end of the pier; and shall not be placed more than 12 feet from any point on the pier. These piles shall be as far offshore as possible.

9. Future Maintenance of Facilities. Future maintenance of facilities authorized by this RGP are authorized provided there is no change in size, configuration, or use of the facility; that all maintenance is conducted in accordance with all conditions contained herein and in the RGP verification letter; the RGP has not been modified; and as long as no new species have been listed under the Endangered Species Act.

10. Impact Reduction Measures. The above-described construction measures will minimize impacts of these structures to the aquatic environment. However, because of cumulative impacts of numerous floating and stationary structures to be authorized under this RGP, impact reduction measures must be implemented. Impact reduction measures consist of planting emergent vegetation (if site appropriate) and a buffer of vegetation a minimum of 10-feet wide along the entire length of the shoreline immediately landward of OHW. A path 6-feet wide or less is allowed through the buffer for access to the pier. This buffer is to be kept free of chemical fertilizers, herbicides and pesticides.

    The purpose of the buffer is to establish a riparian plant community and associated food web that can be used by migrating salmonids as they pass through the project area. The vegetation will provide food, organic matter, and root structure for protection of juvenile fish in the near shore area. Woody debris from the buffer that enters the water will provide nutrients to the lake ecosystem. Therefore, woody debris shall not be removed from the water or shoreline.

    A permittee is required to establish and preserve impact reduction plantings at the project site for the duration that the overwater structure is in place. The intent of the shoreline planting should be to provide a continuous native plant community along the shoreline. The impact reduction planting will consist of native shrubs and trees and, when possible, emergent vegetation. At least five native trees will be included in a planting plan containing one or more evergreen trees and two or more trees that like wet roots (e.g., willow species). Planting density and spacing should be commensurate with spacing recommended for each individual species. Prior to issuance of an RGP, the Corps must approve the prospective permittee's impact reduction plan and species list. The impact reduction planting must be completed within 12 months of the Corps' issuance of an RGP to the permittee.

Other impact reduction measures may be proposed by the applicant, particularly if riparian plantings are not feasible, due to lack of space. These will be reviewed and approved by the Corps, the U.S. Fish and Wildlife Service and the National Marine Fisheries Service on a case-by-case basis.

11. Impact Reduction Planting Performance Standards. One hundred percent survival of all planted native trees and shrubs is required during the first and second years after planting. During the third through fifth years after planting 100 percent of the trees must survive and 80 percent survival of the remaining native plants is required. Individual plants that die must be replaced with native shrubs and trees taken from the approved species list (see Appendix C).

12. Impact Reduction Reports. Impact reduction reports must be submitted to the Corps for all projects as follows:

    a. A status report on impact reduction construction, including as-built drawings, must be submitted to the Corps 12 months from the date the Corps issues an RGP to the permittee. Status reports on impact reduction construction will be due annually to the Corps until the Corps accepts the as-built drawings. The permittee can meet this reporting requirement by submitting to the Corps a completed *Status Report for Impact Reduction Construction*, found in Appendix D.

    b. For impact reduction planting, monitoring reports will be due annually for 5 years from the date the Corps accepts the as-built drawings. The impact reduction monitoring report will include written and photographic documentation on tree and shrub mortality and replanting efforts. The permittee can meet this reporting requirement by submitting to the Corps a completed *Impact Reduction Monitoring Report*, found in Appendix E.

Water Quality Certification: The Corps has requested that the Washington Department of Ecology (Ecology), pursuant to Section 401 of the CWA and Chapters 173-225 of the Washington Administrative Code (WAC) and the requirements of the U.S. Coastal Zone Management Act (16 U.S.C. 1452 et seq.) and its implementing regulations (15 CFR 923-930), certify that those activities authorized by this RGP for which Ecology is responsible will not violate established State of Washington water quality standards and will be consistent with the requirements of the State of Washington's Coastal Zone Management (CZM) program. On August 7, 2003, Ecology provided the required 401 Water Quality Certification. By not acting on the Corps request for Certification of Consistency with the Washington Coastal Zone Management Program, state agency concurrence is presumed.

Endangered Species: The Endangered Species Act of 1973 (ESA), as amended, requires all Federal agencies to consult with the National Marine Fisheries Service (NMFS) and/or the U.S. Fish and Wildlife Service (USFWS), pursuant to Section 7 of the ESA, on any action, or proposed action, permitted, funded, or undertaken by the agency that may affect a species listed as threatened or endangered under the ESA, or its designated critical habitat. The Corps has determined that activities that would be authorized by this RGP may affect federally listed species and, therefore, will consult with the NMFS and the USFWS.

Essential Fish Habitat: The Magnuson-Stevens Fishery Conservation and Management Act (MSA), as amended by the Sustainable Fisheries Act of 1996, requires all Federal agencies to consult with the NMFS on all actions, or proposed actions, permitted, funded, or undertaken by the agency that may adversely affect Essential Fish Habitat (EFH). If the Corps determines that issuance of this RGP may adversely affect EFH for federally managed fisheries in Washington waters, the Corps will initiate consultation with the NMFS.

Permit Conditions: Department of the Army authorization under this RGP is subject to the following conditions:

SPECIAL CONDITIONS

1. Allowable Work Windows for Bald Eagles. The prospective permittee agrees to abide by the work window established by the Corps (please refer to the Corps, Seattle District, Regulatory Branch Internet homepage, *http://www.nws.usace.army.mil/reg.html* for the current listing of approved work windows). Adherence to these timing windows is necessary, in most cases, to maintain a not likely to adversely affect (NLAA) determination if all other measures have reduced the project impacts to this level. Variations in this work window are based on the distance of the proposed project to the nearest bald eagle nest and wintering concentration. The Corps will coordinate with the U.S. Fish and Wildlife Service to determine the appropriate work window once an application is submitted.

2. Allowable Work Windows for Listed Fish Species. In addition to the work windows for bald eagles listed above, work must comply with established fish work windows for the corresponding portion of Lake Washington, Lake Sammamish, the Sammamish River or Lake Union, including the Lake Washington Ship Canal. (Please refer to the Corps, Seattle District, Regulatory Branch Internet homepage, *http://www.nws.usace.army.mil/reg.html* for the current listing of approved work windows.)

3. Work in the Dry. Work that disturbs the substrate, bank, or shore of a water of the United States shall occur in the dry whenever practicable.

4. Operation of Equipment. Equipment shall be operated from the top of the bank, dry gravel bar, work platform, or similar out-of-water location whenever possible. Equipment shall be operated in a manner that minimizes the suspension of particulates. All equipment used in or around waters shall be clean and inspected daily prior to use to ensure that the equipment has no fluid leaks. Should a leak develop during use, the leaking equipment shall be removed from the site immediately and not used again until it has been adequately repaired. Equipment should be stored and/or fueled at least 100 feet from any surface water where possible.

5. Disturbance of Vegetation. Disturbance of bank vegetation shall be limited to the minimum amount necessary to accomplish the project. Disturbed bank vegetation shall be replaced with native, locally adapted herbaceous and/or woody vegetation. Herbaceous plantings shall occur within 48 hours of the completion of construction. Woody vegetation components shall be planted in the fall or early winter, whichever occurs first. The applicant shall take appropriate measures to ensure revegetation success.

6. Isolation of Work Area. In-water work areas shall be isolated from the surrounding waterbody by properly installed silt screen or similar sediment containment device whenever practicable. The permittee shall remove these temporary sediment containment devices as soon as the devices are no longer necessary to protect the surrounding waterbody.

7. Proximity to Wetlands. No structure permitted herein shall be installed in or within 100-feet of a wetland or within 100-feet of either side of the mouth of any river, stream, or creek. “Wetlands” means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

8. Navigation and Access to Adjacent Structures and Property. The permitted activity must not interfere with the public’s right to free navigation on navigable waters of the United States, including ingress and egress to adjacent waterfront structures and property.

GENERAL CONDITIONS

1. Reliance on Permittee's Information. In verifying a permittee's authorization under this RGP, the Department of the Army has relied, in part, on the information provided by the permittee. If this information proves to be false, incomplete, or inaccurate, the permittee's authorization may be modified, suspended, or revoked, in whole or in part.

2. Compliance with Terms and Conditions. Projects authorized by this RGP shall comply with all terms and conditions herein and any case-specific conditions added by the Corps, State, or Environmental Protection Agency or a tribe as a result of a water quality certification. Failure to abide by these terms and conditions invalidates this authorization and may result in a violation of Federal law, which may require that the permittee restore the site or take other remedial action. Activities requiring Department of the Army authorization that are not specifically authorized by this RGP are prohibited unless authorized by another Department of the Army permit.

3. Contractor's Copy of Permit. The permittee shall provide complete copies of this permit and the Corps verification letter for the authorized project to each contractor involved in the project and keep copies of this permit and Corps verification letter available for inspection at the project site.

4. Compliance Certification. Every permittee shall submit to the Corps, within 30 days of completing the authorized work, certification that the work, including any required impact reduction, was conducted in accordance with the provisions of this RGP, including case-specific special conditions. The permittee must use the *Statement of Compliance Form* (Appendix D) of this RGP.

5. Access for Inspection. The permittee shall allow the District Engineer or his authorized representative to inspect the project whenever deemed necessary to ensure that the activity is in compliance with the terms and conditions prescribed herein.

6. Limits of Authorization. This permit does *not*:

    a. Obviate the requirement to obtain all other Federal, State, or local authorizations required by law for the activity authorized herein, including any authorization required from Congress.

    b. Convey any property rights, either in real estate or material, or any exclusive privileges.

    c. Authorize any injury to property, invasion of rights, or any infringement of Federal, State, or local laws or regulations.

    d. Authorize the interference with any existing or proposed Federal project.

7. Limits of Federal Liability. This permit is not an approval of the design features of any authorized project or an implication that such project is adequate for the intended purpose; a Department of the Army permit merely expresses the consent of the Federal Government to conduct the proposed work insofar as public rights are concerned. In issuing this RGP, the Federal Government does not assume any liability for the following:

    a. Design or construction deficiencies associated with the authorized work.

    b. Damages to the permitted project or uses thereof as a result of other permitted activities or from natural causes, such as flooding.

    c. Damages to persons, property, or to other permitted or unauthorized activities or structures caused by the activity authorized by this permit.

    d. Damages associated with any future modification, suspension, or revocation of this permit.

e. The removal, relocation, or alteration of any structure or work in navigable waters of the United States ordered by the Secretary of the Army or his authorized representative.

f. Damage to the permitted project or uses thereof as a result of current or future activities undertaken by, or on behalf of, the United States in the public interest.

8. Tribal Rights. No activity may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

9. Corps Coordination. Permittees shall coordinate with the appropriate office of the Corps prior to commencing any construction activity in a federally maintained channel and/or waterway

10. Obstruction of Navigation. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration of the work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work unreasonably obstructs the full and free use of navigable waters of the United States, the permittee shall, upon due notice from the Corps, remove, relocate, or alter the obstructions caused thereby, without expense to the United States. If the permittee fails to comply with the direction of the Corps, the District Engineer may restore the navigable capacity of the waterway, by contract or otherwise, and recover the cost thereof from the permittee.

11. Stability. The permittee shall design projects to be stable against the forces of flowing water, wave action, and the wake of passing vessels.

12. Maintenance. The permittee shall properly maintain all authorized structures, including maintenance necessary to ensure public safety.

13. Marking Structures. The permittee shall install and maintain any lights, signals, or other appropriate markers necessary to clearly designate the location of structures or work that might pose a hazard to public safety. Permittees shall abide by U.S. Coast Guard requirements concerning the marking of structures and work in navigable waters of the United States.

14. Endangered Species. This RGP does not authorize any activity that is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the ESA.

15. Essential Fish Habitat. This RGP does not authorize any activity that may adversely affect designated Essential Fish Habitat as defined under the Magnuson-Stevens Fishery Conservation and Management Act.

16. Historic Properties. This RGP does not authorize any activity that may affect historic properties listed, or eligible for listing, in the National Register of Historic Places (NRHP) until the provisions of 33 CFR 325, Appendix C, have been satisfied. Historic properties include prehistoric and historic archeological sites, and areas or structures of cultural interest. A prospective permittee must notify the District Engineer if the proposed activity may affect a historic property that is listed, eligible for listing, or may be eligible for listing in the NRHP, and shall not begin the activity until notified by the District Engineer that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. If a previously unknown historic property is encountered during work authorized by this RGP, the permittee shall immediately cease all ground activities in the immediate area, notify the Corps within 1 business day of discovery. The permittee shall perform any work required by the Corps in accordance with Section 106 of the National Historic Preservation Act and Corps regulations and avoid any further impact to the property until the District Engineer verifies that the requirements of 33 CFR Part 325, Appendix C, have been satisfied.

17. Wild and Scenic Rivers. No activity may occur in a component of the National Wild and Scenic River System or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status unless the appropriate federal agency (e.g. National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service), with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status.

18. Water Quality Standards. All activities authorized herein that involve a discharge of dredged or fill material into waters of the United States shall, at all times, remain consistent with all applicable water quality standards, effluent limitations and standards of performance, prohibitions, pretreatment standards, and management practices established pursuant to the Clean Water Act (P.L. 92-500; 86 Stat. 816) or pursuant to applicable State and local law.

19. Minimization of Environmental Impact. The permittee shall make every reasonable effort to conduct the authorized activities in a manner that minimizes the adverse impact of the work on water quality, fish and wildlife, and the natural environment, including adverse impacts to migratory waterfowl breeding areas, spawning areas, shellfish beds, and aquatic resource buffer zones.

20. Soil Erosion and Sediment Controls. The permittee shall use and maintain appropriate erosion and sediment controls in effective operating condition and permanently stabilize all exposed soil and other fills, including any work below the ordinary high water mark or high tide line, at the earliest practicable date using native vegetation to the maximum extent practicable. The permittee shall remove all installed controls as soon as they are no longer needed to control erosion or sediment.

21. Equipment. The permittee shall place heavy equipment working in wetlands on mats, or take other appropriate measures to minimize soil disturbance.

22. Aquatic Life Movements. The permittee shall not substantially disrupt the necessary life-cycle movement of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the primary purpose of the activity is to temporarily impound water.

23. Management of Water Flows. To the maximum extent practicable, the activity must be designed to maintain downstream flow conditions. Furthermore, the activity shall not permanently restrict or impede the passage of normal or expected high flows. The permittee should limit the work conducted in waters of the United States to low- or no-flow periods.

24. Water Supply Intakes. The permittee shall ensure that activities authorized by this RGP have no more than a minimal adverse impact on public water supply intakes.

25. Practicable Alternatives. Activities authorized by this RGP shall be designed and constructed to avoid and minimize adverse impacts to waters of the United States to the extent practicable through the use of practicable alternatives.

26. Suitable Material. Any material or structure placed in waters of the United States, whether temporary or permanent, shall be free of toxic pollutants in toxic amounts.

27. Removal of Temporary Fills. Temporary fills must be removed in their entirety and the affected area returned to pre-construction contours.

28. Disposal of Excess Material. All construction debris and any other material not authorized by the Corps for permanent placement into waters of the United States shall be disposed of in an upland location in a manner that precludes it from entering waters of the United States.

Modification, suspension, or revocation of the RGP: This RGP may be modified or suspended in whole or in part if the Secretary of the Army or his authorized representative determines that the individual or cumulative impacts of work that would be authorized using this procedure are contrary to the public interest. Any such modification, suspension, or revocation shall become effective 30 days after the issuance of a public notice announcing such action. The final decision whether to modify, suspend, or revoke this permit, in whole or in part, shall be made pursuant to procedures prescribed by the Chief of Engineers. Following such revocation, any future activities heretofore authorized by this RGP will require alternate Department of the Army authorization.

The authorization of an individual project under this RGP may also be summarily modified, suspended, or revoked, in whole or in part, if the permittee either fails to abide by the terms and conditions of this permit or provides information that proves to be false, incomplete, or inaccurate, or upon a finding by the District Engineer that such action would be in the public interest. If a permittee's authorization is revoked, the permittee shall, upon notice of such revocation, without expense to the United States and in such time and manner as the Secretary of the Army or his authorized representative may direct, restore the waterway to its former condition. If the permittee fails to comply with the direction of the Secretary of the Army or his authorized representative, the Secretary or his designee may restore the waterway to its former condition, by contract or otherwise, and recover the cost thereof from the permittee.

Expiration of the RGP: This permit shall become effective on the date of the signature of the District Engineer or his authorized representative and will automatically expire 5 years from that date unless the permit is modified, revoked, or extended prior to that date. Activities that have commenced (e.g., are under construction) or are under contract to commence in reliance upon this permit will remain authorized provided that the activity is completed within 1 year of the date of this permit's expiration, modification, or revocation, unless discretionary authority has been exercised on a case-by-case basis to modify, suspend, or revoke the authorization.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

_____ _____

Date

DEBRA M. LEWIS
Colonel, Corps of Engineers
District Engineer

APPENDIX A

US Army Corps of Engineers
Seattle District

REGIONAL GENERAL PERMIT 3
SPECIFIC PROJECT INFORMATION FORM (SPIF)
For Construction of New or Expansion of Existing Residential Overwater Structures and Drive Moorage Piling in Lake Washington, Lake Sammamish, the Sammamish River and Lake Union, Including the Lake Washington Ship Canal, in the State of Washington

1. **Referenced Biological Evaluation:**
   Biological Evaluation for Construction of New or Expansion of Existing Residential Overwater Structures and Drive Moorage Piling in Lake Washington, Lake Sammamish, the Sammamish River and Lake Union, Including the Lake Washington Ship Canal, in the State of Washington June 26, 2003. Regulatory Branch, Seattle District U.S. Army Corps of Engineers.
2. **Date**: _____
3. **Applicant**: _____ **Corps Reference No**.: _____
   Address: _____
   City: _____ State: _____ Zip: _____
4. **Agent:** _____
   Address: _____
   City: _____ State: _____ Zip: _____
5. **Location(s) of Activity:**
   Quarter Section: _____ Section: _____ Township: _____ Range: _____
   Latitude: _____ Longitude: _____
   Street address: _____
   Waterbody: _____ County: _____
6. **Use type:** ☐ Private non-commercial ☐ Private Joint-use[a] non-commercial
   Name and address of joint-use property owner(s):
   _____
   _____
7. **Project description:**
   a. Length and width of pier: _____
   b. Length and width of ramp: _____
   c. Will the ramp be permanent or removable/seasonal: _____
   d. Length and width of float(s): _____
   e. Number of floats to be installed: _____
   f. If ells or finger piers to be installed, what is the distance from the Ordinary High Water Line (OHWL): _____

[a] Joint use requires at least two contiguous residential waterfront property owners.

g. Length and width of grating to be installed:

h. Size of structure(s) to be removed (if applicable):

i. Describe the amount (cubic yards), type/size, and location of material to be placed for beach nourishment or fish habitat enhancement, if authorized by an HPA issued by the Washington Department of Fish and Wildlife:

j. Describe the elevation of the pier in relation to the ordinary high water line (OHW):

k. Describe the type of construction material to be used for the decking, fascia boards, stringers, pile caps, and whalers. Describe the type of preservative or paint to be used:

l. Provide the number, dimensions, material, and distance from shore of the piling to be installed to secure the pier, ramp, and/or float:

m. Describe the type of floatation to be used. Include the color and composition (e.g., high density polyethylene, etc.) of flotation parts and materials that will contact the water:

n. Provide the minimum spacing between piling on any side of the structure's components (e.g., on the pier, ramp, and float):

o. Provide the depth of water under the landward edge of the float:

8. **Construction techniques:**

a. Describe how the piling will be installed. Include the type of equipment, tools, and machinery to be used:

b. Describe how the pier, ramp, and float will be constructed, transported, and installed. Include the type of equipment, tools, and machinery to be used:

c. The number of days it will take to complete the project:

d. Describe the methods proposed to prevent construction debris from entering the water or causing water quality degradation:

9. **Description of the project area:**

a. Describe the length of the property shoreline along the OHWL, the slope of the shoreline landward from the OHWL, and the type of substrate on the shoreline landward of the OHWL:

b. Describe the vegetation along the shoreline above the OHWL. Include the number of trees and shrubs, the species, the height, and location. (Photos and/or drawings are recommended):

c. Describe the substrate waterward of the OHWL. Include the type of aquatic vegetation within a 200-foot radius of the proposed pier, ramp, and float, and the density of the vegetative cover (e.g., 75% vegetative cover and 25% unvegetated exposed substrate): _____

d. Describe any existing or proposed in-water or overwater structures within 400 feet of this proposed pier, ramp, and float. Include the distance between these structures and this proposed pier, ramp, and float: _____

e. Describe the amount of large and small woody debris on the shoreline both above and below the OHWL. Include woody debris on adjacent property shorelines: _____

10. **Conservation Measures to be implemented** (Check only the measures you will implement, leaving blank any measures you will not implement. State "not applicable" next to items that do not pertain to your project. For example, if no heavy equipment will be used during construction, write "not applicable" or "N/A" next to items a, b, and d):

a. ☐ All heavy equipment will be clean and free of external oil, fuel, or other potential pollutants.

b. ☐ Native riparian vegetation will not be removed or destroyed during project construction.

c. ☐ No overwater structure will be constructed within 100 feet of a wetland or the mouth of any river, stream, or creek.

d. ☐ Heavy equipment will work from on-shore staging areas and will not enter the water, with the exception of an excavator arm or bucket. Pile drivers may use constructed work platforms to access construction locations (i.e., a barge).

e. ☐ Placement of inwater fill material for the purpose of beach nourishment and/or fish habitat enhancement may occur, if required as a condition of the Hydraulic Project Approval issued by the Washington Department of Fish and Wildlife.

f. ☐ Grating will be installed to allow ambient light to penetrate the structure.

g. ☐ Installation and construction of permanent dock components will occur during approved inwater work windows for the protection of salmonids. Pile driving activities will also occur during approved work windows for the protection of bald eagles (Please refer to http://www.nws.usace.army.mil/reg/reg.htm for current in-water work windows.)

h. ☐ Removable/seasonal ramps must be removed annually from January 1 to June 29.

i. ☐ Total deck area waterward of the OHWL, including ramp structures, shall not exceed 480 square feet for individual overwater structures, 700 square feet for joint use structures with two adjacent property owners, or 1,000 square feet

for joint use structures with three or more adjacent property owners. Two floats may be used for joint-use docks. Joint use requires at least two separate, but adjacent, property owners as applicants for the Corps of Engineers permit.

j. ☐ Piers and floats do not extend waterward of adjacent piers, ramps, and floats, and shall not adversely affect navigation.

k. ☐ No skirting will be placed on floats.

l. ☐ The dock shall be built with materials that do not leach preservatives or other compounds that are known to be deleterious to fishes (i.e. Pentachlorophenol, creosote, or Chromated Copper Arsenate (CCA), copper naphthalene, or other leachable protective chemicals are not allowed).

m. ☐ The pier and ramp will be elevated at least 1.5 feet above the elevation of the OHWL.

n. ☐ No existing habitat features will be removed from the shore or aquatic environment (woody debris or substrate materials). If invasive weeds (e.g., milfoil) are present, removal may occur with authorization from the Washington State Department of Fish and Wildlife.

o. ☐ Shoreline armoring (e.g., bulkheads, rip rap, and retaining walls) will not occur in association with the pier, ramp, and/or float installation (before, during, or after installation of the pier, ramp, and/or float).

p. ☐ Riparian vegetation will be left intact during and following dock installation, except in the exact footprint of the structure and/or access path.

q. ☐ If absent, a 10-foot wide buffer of riparian vegetation shall be established along the entire length of the property shoreline. A pathway six feet wide or less is allowed to access the pier.

r. ☐ The applicant must, upon completion of construction, submit as-built photographs of the project. The Corps shall be allowed to inspect the pier, ramp and float, as well as the riparian buffer each year until completion of the monitoring period to ensure compliance with all permit conditions. During the inspections, the Corps will record any unanticipated indirect and cumulative effects.

11. **List those Conservation Measures that will not be met by this project. Describe why they won't be met:**

_____

_____

_____

_____

12. **Essential Fish Habitat, area affected (square footage of pier, ramp, and float):** _____

13. **Drawings:** Attach a vicinity map and project drawings (plan and elevation views required). Photographs are recommended.

14. **Planting plan:** Attach copy of planting, monitoring, and contingency plan for riparian area.

---------- **Below to be completed by the Corps** ----------

1. **Threatened or Endangered Species present (both listed and proposed). For federally listed terrestrial and plant species, provide an addendum discussing potential impacts to those species.**

Species	Distance to Occurrence (i.e. to nest, perch tree)	Effect Determination (NE, NLTAA, or LTAA)

2. **Work window for construction:** _____ through _____

APPENDIX B

Drawing Checklist

1. GENERAL

☐ Use clear black lettering and fewest number of sheets possible; use 8 ½- by 11-inch sheets
☐ State the purpose of the proposed or existing work
☐ List property owners and indicate number by number on plan view drawing
☐ Show datum used in plan and elevation drawings
☐ Use a graphic scale on all drawings
☐ Use a north arrow; prepare drawing with north being directed to the top of the page
☐ Label all proposed and existing work as such (e.g., Proposed Pier, Proposed Fill…)

2. TITLE BLOCK

☐ A completed title block (first example) must be on every sheet; for subsequent sheets you can use the abbreviated form (second example). All sheets will include the date and/or revision date.

PURPOSE: DATUM: ADJACENT PROPERTY OWNERS: 1. 2.	APPLICANT 2002- LOCATION ADDRESS	PROPOSED: IN: NEAR/AT: COUNTY: STATE: WA SHEET * OF * DATE:

Reference: 2002-
Applicant:

Proposed:
At Washington

Sheet * of * Date

3. VICINITY MAP

☐ Clearly show location of project (e.g., arrow, circle, etc.)
☐ List latitude, longitude, section, township, and range
☐ Name waterways
☐ Show roads, streets, and/or mileage to nearest town or city limits

4. PLAN VIEW

☐ Show shorelines:
Tidal: Show mean high water (MHW) line, mean higher high water (MHHW) line
Lakes or streams: Show the ordinary high water (OHW) line
☐ Show dimensions of proposed structures/fills; distance to property lines; encroachment beyond applicable shoreline; show wetland boundaries and specific impacts to wetlands
☐ Indicate location, quantity, and type of fill, if any
☐ Show all existing structures or fills on subject and adjacent properties
☐ Show direction of currents such as tidal ebb and flood
☐ Indicate adjacent property ownership

5. ELEVATION AND/OR SECTION VIEW

☐ Show shorelines, MHW line, MHHW line, OHW line, wetland boundary
☐ Show original and proposed elevations, water depths, dimensions of proposed structures or fills, and pertinent vertical dimensions to top and base of structure/fill; use the same vertical and horizontal scale, if possible
☐ Use equal horizontal and vertical scales on Section View. Do not skew vertical scale.

For Example Drawings: http://www.nws.usace.army.mil/PublicMenu/Menu.cfm?sitename=REG&pagename=Drawing_Samples

APPENDIX C

Below is a list of approved plant species. The applicant can suggest other species but the Corps must approve the species before work commences. Updates to this list may be found on the Corps website: *http://www.nws.usace.army.mil/reg.html*.

Common Name	**Scientific Name**
Shrubs:	
Sitka willow	*Salix sitchensis*
Souler willow	*S. scouleriana*
Sandbar willow	*S. exigua*
Pacific willow	*S. lasiandra*
Hooker willow	*S. hookeriana*
Red osier dogwood	*Cornus stolonifera*
Red flowering currant	*Ribes sanguineum*
Nootka rose	*Rosa nutkana*
Baldhip rose	*Rosa gymnocarpa*
Thimbleberry	*Rubus parviflorus*
Red elderberry	*Sambucus racemosa*
Snowberry	*Symphoricarpos albus*
Vine maple	*Acer circinatum*
Western serviceberry	*Amelanchier alnifolia*
Ocean spray	*Holodiscus discolor*
Hazelnut	*Corylus americana*
Sweet gale	*Myrica gale*
Trees:	
Black cottonwood	*Populus trichocarpa*
Douglas fir	*Pseudotsuga menzeisii*
Sitka spruce	*Picea sitchensis*
Shore pine	*Pinus contorta*
Ponderosa pine	*Pinus ponderosa*
Cascara	*Rhamnus purshiana*
Big leaf maple	*Acer macrophyllum*
Alnus rubra	*Red alder*
Birch species	*Betula spp.*
Pacific dogwood	*Cornus nuttalii*

APPENDIX D

Status Report for Impact Reduction Construction - RGP-3

Within one (1) year of the date your permit was issued, submit this completed form to: U.S. Army Corps of Engineers, Regulatory Branch, Post Office Box 3755, Seattle, Washington 98124-3755.

Corps' Reference Number: _____

Date the Corps Issued Your Permit: _____

Date this Report is Due: _____

Date Work was Completed: _____

Your Name: _____

Your Address: _____

Your City/State/Zip Code: _____

Your Phone Number: _____

You must attach to this form: ☒ As-built drawing(s) of planting areas (if installed), and
☒ Photographs of the mitigation area.

Describe impact reduction construction performed: _____

_____

If plantings were installed:

Conditions of your Corps permit require at least two trees be planted in each planting plot. The vegetation you plant must be taken from this list of native species below or you can suggest other species but the Corps must approve the species before planting commences. Shrubs should be planted at 3-feet-on-center intervals and trees should be planted at 10-feet-on-center intervals. Be sure to protect your plantings—fencing is recommended.

Name of Species You Planted	Number Planted
Total Planted:	

Native tree list: Populus trichocarpa, Pseudotsuga menziesii, Picea sitchensis, Pinus contorta
Native shrub list: Salix sitchensis, S. scouleriana, S. exigua, S. hookeriana, S. lasiandra, Cornus stolonifera

I hereby certify that I have completed the work in compliance with the terms and conditions of this permit, including any project-specific conditions required by the District Engineer to ensure that this work would have no more than minimal adverse impact on the aquatic environment.

_____ _____
Signature of Permittee Date

_____ _____
Signature of Contractor Date

APPENDIX E

Mitigation Planting Monitoring Report for RGP - 3

Submit this completed form to: U.S. Army Corps of Engineers, Regulatory Branch, P.O. Box 3755, Seattle, WA 98124-3755. A completed form must be submitted 1, 2, 3, 4 and 5 years after the Corps accepts your as-built drawing of the mitigation planting area.

Corps' Verification Reference Number: _____

Date Your As-Builts Were Accepted by the Corps _____

Date This Report Is Due: _____

Your Name: _____

Your Address: _____

Your City/State/Zip Code: _____

Your Phone Number: _____

You must attach to this form: ☒ Photographs of the mitigation area taken within the last month.

Conditions of your Corps permit require 100% survival of all planted trees and shrubs during the first and second years after planting. During the third through fifth years after planting, 80% survival is required. Individual plants that die must be replaced with a species from the list below or you can suggest other species but the Corps must approve the species before planting commences. At least two trees must be planted in your mitigation area. You must protect your mitigation area—fencing is recommended.

Date of Inspection	Species name of Dead Plants	Number of Dead Plants	Name of Species Replanted	Number Replanted

Native tree list: *Populus trichocarpa, Pseudotsuga menziesii, Picea sitchensis, Pinus contorta*
Native shrub list: *Salix sitchensis, S. scouleriana, S. exigua, S. hookeriana, S. lasiandra, Cornus stolonifera*

APPENDIX F

Definitions

"Joint-use" piers, floats, and ramps are constructed by more than one contiguous residential waterfront property owner or by a homeowner's association.

"In-water structures" include wharves, walkways, piles, swim steps associated with a pier, boatlifts, and boathouses.

"Overwater structures" include piers, ramps, floats, and their associated structures. Associated structures include piling, chain and anchors for floats, ladders, steps, and swim steps.

"Skirting" is vertical boards along the edge of a pier extending downward.

The*"Ordinary High Water"* (OHW) mark or line is at an elevation of 21.8 feet for Lake Washington, Lake Union, and the Lake Washington Ship Canal (Corps of Engineers datum) and 27.0 for Lake Sammamish (National Geodetic Vertical Datum). For the Sammamish River connecting Lake Sammamish and Lake Washington, it is the visible line on the banks where the presence and action of waters are so common as to leave a mark upon the soil or vegetation. (Note: The State of Washington has a different definition of OHW).

The *footprint* of an overwater structure is the total surface area (square feet) of all the structure's components (e.g., pier, ramp and/or floats).

Heavy equipment includes but is not limited to bulldozers, pile drivers, aquatic construction equipment**,** back-end loaders, barges, jackhammers, and cement mixers.

A *Spill Prevention Control and Countermeasures Plan* (SPCC plan) is a comprehensive description of containment and countermeasures that would prevent an oil spill from occurring as well as procedures to respond to and clean up an oil spill that does occur. The Clean Water Act requires preparation of a SPCC plan by any facility that stores, transports, or handles oil and could reasonably be expected to discharge oil in a harmful quantity to navigable water.